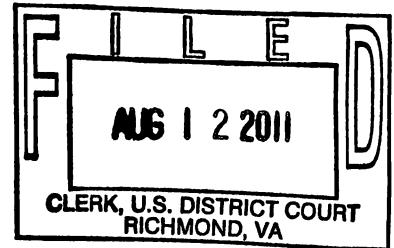


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



MILLIS STOKES,

Plaintiff,

v.

Civil Action No. 3:10cv370

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF CORRECTIONS,

Defendant.

**ORDER**

By Order entered herein on September 13, 2010, the pending DEFENDANTS' MOTION TO DISMISS THE COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(1) AND 12(b)(6) (Docket No. 6) was referred to Magistrate Judge M. Hannah Lauck for report and recommendation. By Order entered herein on December 14, 2010 (dated December 13, 2010) the DEFENDANTS' MOTION TO DISMISS THE COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(1) AND 12(b)(6) was denied without prejudice and the parties were allowed to file supplemental briefing and the pending DEFENDANTS' SECOND MOTION TO DISMISS (Docket No. 30) was referred to Magistrate Judge Lack for report and recommendation.

Having reviewed the REPORT AND RECOMMENDATION of the Magistrate Judge (Docket No. 34) entered herein on July 1, 2011, the plaintiff's objections thereto (Docket Nos. 35 and 36), the defendant's response to plaintiff's objections (Docket No. 37) and having considered the record and the REPORT AND RECOMMENDATION and finding no error therein, it is hereby ORDERED that:

- (1) The plaintiff's objections are overruled;
- (2) The REPORT AND RECOMMENDATION of the Magistrate Judge is ADOPTED on the basis of the reasoning of the REPORT AND RECOMMENDATION; and
- (3) The DEFENDANTS' SECOND MOTION TO DISMISS is denied as to the plaintiff's claim in the Complaint as to retaliatory refusal to rehire. The DEFENDANTS' SECOND MOTION TO DISMISS is granted as to all other claims in the Complaint.

The issues are adequately addressed by the briefs and oral argument would not materially aid the decisional process.

An initial pretrial conference shall be held on September 22, 2011 at 9:30 a.m. unless the parties file by September 12, 2011 a consent to have the matter presided over by the Magistrate Judge.

The Clerk is directed to send a copy of this Order to the plaintiff.

It is so ORDERED.

/s/ *REP*

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Robert E. Payne  
Senior United States District Judge

Richmond, Virginia  
Date: August 12, 2011